

REMARKS CONCERNING THE AMENDMENTS

Antecedent basis for the above amendments may be found generally in the specification, and, by way of non-limiting examples, as follows:

The opened cover allowing access to the collection surface for a dealer – Page 8, lines 9-16 “Among individual features that constitute an advance, alone or in combination with other features include an elevator for moving the final set of randomized cards upwardly so that the stack is accessible to a dealer or attendant.”

SUMMARY OF THE OFFICE ACTION

Applicants confirm the provisional election of the claims of Group I for prosecution on the merits, without traverse. The non-elected claims have been cancelled, with Applicants reserving the right to file divisional applications on the non-elected subject matter.

Claim 60 has been further amended to clarify the scope of the invention.

Claims 60-69 have been subjected to a restriction requirement among four groups of claims as follows:

GROUP I: Claims 60-61; (and previously added claims 70-75 and NEW claims 76-88 added herein)

GROUP II: Claims 62-64;

GROUP III: Claims 65-66; and

GROUP IV: Claims 67-69

Claim Rejections

- 1) Claim 60 has been rejected under 35 USC 102(b) as anticipated by U.S. Patent No. 6,250,632 (Albrecht).
- 2) Claims 61, 73, and 74 have been rejected under 35 USC 103(a) as unpatentable over Albrecht in view of U.S. Patent No. 5,000,453 (Stevens et al.).
- 3) Claims 70-72 have been rejected under 35 USC 103(a) as unpatentable over Albrecht in view of U.S. Patent No. 5,000,453 (Stevens et al.) when further considered with U.S. Patent No. 5,356,145 (Verschoor).
- 4) Claim 75 is rejected under 35 USC 103(a) as unpatentable over Albrecht in view of Stevens et al. when further considered with U.S. Patent No. 5,524,891 (Owen et al.).

RESPONSE TO THE OFFICE ACTION

Applicants confirm the provisional election of the claims of Group I for prosecution on the merits, without traverse. The non-elected claims have been cancelled, with Applicants reserving the right to file divisional applications on the non-elected subject matter.

Claim 60 has been amended to clarify the scope of the invention.

- 1) Claim 60 has been rejected under 35 USC 102(b) as anticipated by U.S. Patent No. 6,250,632 (Albrecht).

In analyzing a rejection under any provision of 35 USC 102 where a printed document is used as the sole reference, it is important to analyze and compare the literal disclosure of the reference to the literal wording of the claim rejected. The following table makes such a literal comparison of claim 60 with the disclosure of Albrecht.

CLAIM 60	DISCLOSURE of ALBRECHT	COMMENTS
An automatic card shuffler comprising:	An apparatus and method for sorting cards into a predetermined sequence. ABSTRACT	Albrecht later defines "predetermined" as predetermined sequence can be random as provided by a random number generator, the same sequence as a new deck (the "new" sequence), or game play (such as required by poker described above) predetermined sequence.
; a housing <u>having an upper surface</u> mounted <u>in</u> a plane of a gaming table surface such that a card receiver for accepting a group of cards to be shuffled is [recessed beneath] accessible from the [top surface of] the gaming table <u>surface</u> ;	The Office Action cites Column 10, lines 31-37 for that disclosure. As shown in the quotation of the entire text cited, this limitation is not disclosed by Albrecht.	Col 10, lines 31-37: The preferred embodiment of the automatic card sorter 20 described above can be used to implement the below described preferred embodiment (shown in FIG. 7) of the method for sorting a stack of game cards into a random, "new", game play, or other predetermined sequence such as defined by the user. Note that a random predetermined sequence may also be referred to as a "shuffle".
the card receiver for accepting	As more clearly shown in	Column 6, lines 42-45.

a group of cards to be shuffled;	FIG. 2, a plurality of game cards 22 are presented in a face down orientation in the deck holding area 24 consisting of a rectangular area (as shown in FIG. 1) slightly larger than the area of the game cards 22.	
a randomizing system for randomizing the order of an initial set of playing cards;	An apparatus and method for sorting cards into a predetermined sequence. ABSTRACT	Albrecht later defines "predetermined" as predetermined sequence can be random as provided by a random number generator, the same sequence as a new deck (the "new" sequence), or game play (such as required by poker described above) predetermined sequence.
a collection surface for receiving randomized cards;	This causes the cards 22 to fall 40 (as shown in FIG. 5c) to a card removal platform 36 forming a sorted deck 42 (shown in FIG. 5c).	Column 2, lines 35-37.
an elevator for raising the collection surface to an elevation <u>so that a complete set of randomized card is accessible to a dealer</u> ; and	The rejection cites column 6, lines 4-40 for this disclosure. Although an elevator raising cards is shown, there is no positioning for "raising the collection surface to an elevation so that a complete set of randomized cards is accessible to a dealer"	The rejection ignores the limitation that the shuffler is "...mounted into a gaming table surface..." in a specific relative orientation to the surface. The initial error made in the second claim limitation discussed above is repeated here.
a microprocessor for controlling the operation of the card shuffler.	The automatic card sorter of the present invention includes at least one card reader for reading the characters on the face of a game card. From the input from the card reader, the controller, typically a microprocessor in conjunction with appropriate software and hardware, determines the rank and suit of the card.	Column 2, lines 42-51.

As is seen from this comparison, the rejection fails to address at least two specific limitations in the claims, primarily because those limitations are not taught by Albrecht. The limitation is not to be interpreted as merely part of a preamble, as it is an active structural limitation that is recited in two separate parts of the claim, and defines the interrelationship of parts, and the degree of movement of parts. As such it is one of the many literal limitations in the claims.

Specifically, the claim first recites:

a housing having an upper surface mounted in a plane of a gaming table surface such that a card receiver for accepting a group of cards to be shuffled is [recessed beneath] accessible from the [top surface of] the gaming table surface;

Albrecht does not show such a an orientation between an upper surface of the shuffler and the gaming table surface. The specific portion of the specification cited to show this limitation (Column 10, lines 31-37) does not have any material or even relevant disclosure of this limitation. Albrecht fails to establish anticipation of claim 60 for at least that reason. It is also to be noted that Albrecht has absolutely no material disclosure of placing the shuffling function below the table surface.

Claim 60 then goes on to recite that there is:

"...an elevator for raising the collection surface to an elevation so that a complete set of randomized cards is accessible to a dealer;..."

Albrecht does have an elevator that raises the collection surface, as identified in the comparison table above. However, there is no disclosure of the remainder of that recitation of raising the collection surface to an elevation wherein the complete set of randomized cards is accessible to a dealer. There is no such disclosure. The additional portion of Albrecht cited (column 6, lines 4-40) does not describe any motion of the elevator or the collection surface from below a table surface to approximately equal to the table surface.

The rejection of claim 60 again fails to meet literal limitations in the claims and must be withdrawn. The rejection of claim 60 as anticipated by Albrecht is clearly in error.

2) Claims 61, 73, and 74 have been rejected under 35 USC 103(a) as unpatentable over Albrecht in view of U.S. Patent No. 5,000,453 (Stevens et al.).

The Stevens reference does not correct the underlying fault in the Albrecht patent with respect to elevator movement of the top surface in the same plane as the table surface. The Stevens disclosed shuffler sits on a table surface, so the entire shuffler is sitting on a table top. There is no disclosure of the Stevens reference that corrects the failure of Albrecht to teach these limitations. Therefore, even if Stevens teaches the limitations for which it has been cited, it does not correct the deficiencies of Albrecht.

The citation of the Stevens reference is provided as a purported teaching of the use of a cover that opens and closes over the elevator for security. The Stevens reference fails to teach a moveable cover and the reasoning behind the assertion of the Stevens reference to support obviousness lacks the minimum requirements under 35 USC 103(a).

The rejection essentially states with respect to claim 61 that Stevens desires that his shuffler be "secure," and then asserts, in effect, that anything that can be done to a shuffler to make it more secure is obvious. Specifically the rejection asserts that "it would have been obvious to one of ordinary skill in the art at the time of the invention to have a cover that opens and closes for increased security." This is an assertion of the obviousness of a specific structure on a specific device, without any basis for the teaching except for the hindsight of the Examiner. There is absolutely nothing in the art suggesting a cover on a table mounted shuffler where cards are shuffled below the table top and raised the proximity of the table top for dealer removal.

The assertion that a cover on that orientation and location of a shuffler provides any substantive security is not reasonable. The cards and the shuffler are already located below the table in the control of the dealer. Anyone attempting to interact with the cards would have to reach across the table and down into an opening to grab the cards. There is no reasonable amount of security added if such a foolish player were to have top open a cover to reach down the elevator shaft. The basis for asserting obviousness is unreasonable, and there is no specific disclosure of any moveable covers for shufflers with elevators, with the covers over the top of the elevator.

This rejection is completely in error with respect to claim 61.

- 3) Claims 70-72 have been rejected under 35 USC 103(a) as unpatentable over Albrecht in view of U.S. Patent No. 5,000,453 (Stevens et al.) when further considered with U.S. Patent No. 5,356,145 (Verschoor).

Again, the teaching of the additional reference, in this case Verschoor, does not overcome the deficiencies of Albrecht alone or Albrecht in view of Stevens with respect to the mounting of the shuffling device with respect to the casino table surface, the movement of the collection surface with respect to the casino table surface and the other issues discussed above with respect to the failure of Albrecht and Stevens to teach the limitations of the independent and dependent claims. Additionally, Verschoor does not even teach all of the limitations for which it was cited against claims 70-72, and the combination of three references does not teach additional limitations in these claims which have not been addressed by the rejection.

Claim 70, for example, contains the limitation of:

“...a mechanism for automatically adjusting the gripping support mechanism during operation to suspend cards of varying dimensions.”

There is no description provided in the rejection of record and Attorney for Applicants have found no description of an automatic adjustment by the shuffling apparatus on the gripping mechanism during operation to suspend cards of varying dimensions. **This limitation in claim 70 clearly establishes novelty and lack of obviousness over the combination of three references in this rejection for claim 70 and any claim dependent therefrom.**

Claim 71 also contains limitations, in addition to those of the independent claim from which it depends, which render it novel and unobvious. Claim 71 recites that:

“...wherein the gripping support mechanism comprises a pair of spaced apart gripping pads that move towards the edges of a stack of cards.”

Non reference of record in this rejection shows **gripping pads that move towards the edges of a stack of cards**. These references all use rollers to move cards, and cards are supported by their faces with flat surfaces or in contact with rollers. There are no gripping pads contacting edges of cards to support cards. The rejection of claim 71 over this combination of references is clearly in error and must be withdrawn.

Claim 72 also contains limitations in addition to those of the independent claim from which it depends that defines novel and unobvious subject matter, including at least:

“...a sensor for sensing the presence of a sub-stack of suspended cards.”

Albrecht essentially shows in the cited column 7, lines 48-58 a deck sensor to determine how many decks are present. The sensor recited in claim 72 performs a completely different function. There is a stack of cards in the shuffler (e.g., on the elevator), the stack is divided into a lower portion and a supported (elevated) sub-stack (recited in the claim), and the sensor senses the supported sub-stack. This is substantially different from Albrecht, which does not sense separate portions of a single stack. Note the location of the sensor 80 of Albrecht in Figure 5c, which is underneath the cards that are placed manually into the shuffler to be shuffled and which always remain as a single stack, with only the bottom card being sensed. It is impossible for that sensor to sense a sub-stack of suspended cards, as there are no suspended cards in the system and the sensor of Albrecht can sense only the bottom card.

This rejection is clearly in error and must be withdrawn.

4) Claim 75 is rejected under 35 USC 103(a) as unpatentable over Albrecht in view of Stevens et al. when further considered with U.S. Patent No. 5,524,891 (Owen et al.). Again, the teaching of the additional reference, in this case Owen, does not overcome the deficiencies of Albrecht alone or Albrecht in view of Stevens with respect to the orientation of the shuffling device with respect to the casino table surface, the movement of the collection surface with respect to the casino table surface and the other issues discussed above with respect to the failure of Albrecht and Stevens to teach the limitations of the independent and dependent claims.

This rejection must fail for at least that reason.

The NEW claims, such as claim 76 below, fall within the scope of the elected invention of Group I, including claim 60. New Claim 76 is derived from claim 60 in combination with elected claim 61 with the cover. The claim, described below. With specific (and not exclusive) patentable limitations discussed herein.

76. An automatic card shuffler comprising:

a housing having top portion substantially flush with a gaming table surface;
the card receiver for accepting a group of cards to be shuffled;
a randomizing system for randomizing the order of an initial set of playing cards beneath the top surface of the gaming table;
a collection surface for receiving randomized cards;
an elevator for raising the collection surface to an elevation wherein cards may be removed manually by a dealer who is above the top surface of the gaming table; and
a microprocessor for controlling the operation of the card shuffler.

Most of these highlighted limitations have been discussed above, with specific limitations being modified from the earlier description. For example, the elevator here raises the collection surface to an elevation wherein the playing cards can be manually retrieved by a. As noted earlier, there is no disclosure of shuffling of cards below the casino table surface, no receiver accepting a group of cards to be shuffled beneath the casino table surface, and the like. This claim is clearly patentable over the art of record.

Similarly, the highlighted limitations of claim 83 establish novelty and unobviousness for the same or similar reasons as discussed above with respect to claims 60 and 76:

An automatic card shuffler associated with a gaming table comprising:
a housing positioned with respect to a gaming table surface such that a card receiver for accepting a group of cards to be shuffled is beneath the top surface of the gaming table;
the card receiver for accepting a group of cards to be shuffled;
a randomizing system for randomizing the order of an initial set of playing cards beneath the top surface of the gaming table;
a collection surface for receiving randomized cards;
an elevator for raising the collection surface to an elevation wherein cards are accessible to a dealer; and
a microprocessor for controlling the operation of the card shuffler.

This claim is novel and unobvious over the art of record for all of the reasons discussed above. No reference shows an actual shuffler of physical cards where the shuffling is performed below the elevation of an associated game table surface. No reference shows an elevator carrying those shuffled cards (from the below the table surface) to an elevation controlled by the shuffler that from which the cards may be accessed by the dealer. Each of the concepts are novel and unobvious. The combination of limitations is clearly novel and unobvious.

RESPONSE TO THE RESTRICTION REQUIREMENT

Applicants hereby confirm the election, without traverse, the subject matter of claims 60-61 (and added claims 70-75 and any new claims added by this amendment) for prosecution on the merits. Applicants elect to reserve the right to file divisional applications on the subject matter of claims 62-69 at a time of their own election.

REMARKS

Applicant respectfully requests that this amendment be entered into the record and that all claims should be allowed.

If a telephone conference would be helpful in resolving any issues concerning this communication, please contact Applicant's attorney of record, Mark A. Litman at (952) 832-9090.

Respectfully submitted,

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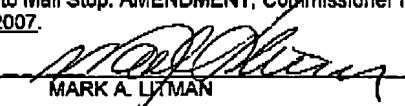
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By: _____


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The undersigned hereby certifies that this Transmittal Letter and the papers, as described herein, are being faxed to the United States Patent and Trademark Office, addressed to Mail Stop: AMENDMENT, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on 6 AUGUST 2007.

By: _____


MARK A. LITMAN